

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

<b>VANESSA PENA PORRAS,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No.</b>
	)	
<b>SITEMED, INC. AND LANCE</b>	)	
<b>WALKER,</b>	)	
	)	
<b>Defendants.</b>		

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, Defendants SiteMed, Inc. and Lance Walker (collectively, “Defendants”), by and through their undersigned counsel, respectfully submit this Notice of Removal from the State Court of Cobb County, Georgia, Case No. 23-A-1724, to the United States District Court for the Northern District of Georgia, Atlanta Division. In support of removal, Defendants show the following:

1. On or about April 26, 2023, Plaintiff Vanessa Pena Porras (“Plaintiff”) filed a civil action against Defendants in the State Court of Cobb County, Case No. 23-A-1724, asserting a single state law claim under O.C.G.A. § 34-6A-6. Plaintiff did not serve Defendants with this Complaint.

2. On or about July 24, 2023, Plaintiff filed an Amended Complaint containing a claim under O.C.G.A. § 34-6A-6 and adding the following three additional claims: a claim for intentional infliction of emotional distress, a claim for alleged “unpaid time and overtime” under the federal Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”), and a claim for retaliation under the FLSA.

3. On or about July 30, 2023, Plaintiff served Defendants with the Amended Complaint.<sup>1</sup> Accordingly, Defendants timely file this Notice of Removal within 30 days after receiving a copy of Plaintiff’s Amended Complaint, as required by 28 U.S.C. § 1446(b).

4. The above-mentioned pleadings are attached as **Exhibit A** as required under 28 U.S.C. § 1446(a). According to the docket in the Cobb County State Court case, the Court entered an Omnibus Order to Perfect Service on July 18, 2023, and two Sheriff’s Entry of Service documents were also filed with the Court on August 1, 2023. These documents are also included with **Exhibit A**. The contents of **Exhibit A** constitute the entire file for this action (to the best of Defendants’ knowledge after reasonable inquiry) as of the time of removal.

---

<sup>1</sup> Defendants for the first time received a copy of the original complaint and summons on July 30, 2023.

5. Pursuant to 28 U.S.C. § 1446(d), this Notice of Removal will be filed with the State Court of Cobb County, Georgia. A copy of Defendants' Notice of Filing of Notice of Removal is attached hereto as **Exhibit B**. Promptly after filing this Notice of Removal, Defendants will file a copy of the documents reflected in **Exhibit B** with the Cobb County State Court and serve the same on Plaintiff.

6. Additionally, pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon Plaintiff's counsel, as set forth in the certificate of service below.

7. The Cobb County State Court is located within the Atlanta Division of the Northern District of Georgia. 28 U.S.C. § 90. Therefore, venue is proper in this Court because it is the "district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a).

8. Accordingly, the prerequisites and procedures for removal under 28 U.S.C. § 1441 have been met. If any questions arise as to the propriety of the removal of this action, Defendants request the opportunity to present briefing, oral argument, and further evidence as necessary to demonstrate that this case is removable and has been properly removed.

### **GROUND FOR REMOVAL**

9. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because one or more of Plaintiff's claims arise under the Constitution, laws, or treaties of the United States.

10. Specifically, Plaintiff's Amended Complaint alleges that Defendants violated the FLSA.

11. By asserting claims under the FLSA, Plaintiff's Amended Complaint asserts a federal question under 28 U.S.C. § 1331. Accordingly, this action is properly removable to this Court pursuant to federal question jurisdiction under 28 U.S.C. § 1441(a).

12. With respect to the state law claims alleged in the Amended Complaint, the Court may exercise supplemental jurisdiction "over all claims that are so related to claims in the action within [the court's] original jurisdiction that they form part of the same case or controversy . . . ." 28 U.S.C. § 1367(a). Federal-law and state-law claims form part of the same case or controversy where they "derive from a common nucleus of operative fact' and are 'such that [a plaintiff] would ordinarily be expected to try them all in one judicial proceeding.'" *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 349 (1988) (quoting *United Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966) (alteration in original)). According to the allegations in the

Amended Complaint, all claims in this action purportedly arise from alleged acts or omissions that occurred in connection with Plaintiff's alleged employment with Defendants and separation therefrom.

13. By removing this matter, Defendants SiteMed, Inc. and Lance Walker do not waive or intend to waive any defenses.

WHEREFORE, having fully complied with all requirements for removal of this action, Defendants SiteMed, Inc. and Lance Walker request that the action now pending in the State Court of Cobb County, Georgia, be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

Respectfully submitted this 28th day of August, 2023.

/s/Jana L. Korhonen

Jana L. Korhonen

Georgia Bar No. 100125

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

191 Peachtree Street, NE, Suite 4800  
Atlanta, GA 30303

jana.korhonen@ogletree.com

T: (404) 870-1791

F: (404) 870-1732

***Attorneys for Defendants***

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**VANESSA PENA PORRAS,**

**Plaintiff,**

**v.**

**SITEMED, INC. AND LANCE  
WALKER,**

**Defendants.**

**Civil Action No.**

**CERTIFICATE OF SERVICE**

It is hereby certified that on August 28, 2023 the foregoing **NOTICE OF REMOVAL** was filed electronically with the Clerk of Court using the CM/ECF system and that a copy was served on the following via first-class U.S. Mail, postage paid addressed as follows:

Charles M. Dalziel, Jr.  
Dalziel Law Firm  
680 Village Trace NE Building 20E  
Marietta, GA 30060  
chuck@dalziellawfirm.com

/s/Jana L. Korhonen  
Jana L. Korhonen  
Georgia Bar No. 100125